

## EXHIBIT 90

1 UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
2 EASTERN DIVISION  
3

IN RE: NATIONAL )  
4 PRESCRIPTION ) MDL No. 2804  
OPIATE LITIGATION )  
5 \_\_\_\_\_ ) Case No.  
 ) 1:17-MD-2804  
6 )  
THIS DOCUMENT RELATES ) Hon. Dan A.  
7 TO ALL CASES ) Polster  
8

WEDNESDAY, JANUARY 9, 2019

9  
HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER  
10 CONFIDENTIALITY REVIEW

11 - - -

12 Videotaped deposition of Michael  
13 Wessler, held at the offices of STINSON  
14 LEONARD STREET LLP, 7700 Forsyth Boulevard,  
15 Suite 1000, St. Louis, Missouri, commencing  
16 at 9:02 a.m., on the above date, before  
17 Carrie A. Campbell, Registered Diplomate  
18 Reporter and Certified Realtime Reporter.

19

20

21

22 - - -

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24

25

Page 138	Page 140
<p>1 Q. Okay. What is a Fingertip 11:40:07</p> <p>2 Formulary? 11:40:10</p> <p>3 A. Fingertip Formulary is a tool 11:40:10</p> <p>4 where you can see for a specific managed care 11:40:14</p> <p>5 plan how Exalgo is covered, what tier it is, 11:40:22</p> <p>6 tier 1, 2, 3, et cetera. 11:40:25</p> <p>7 Q. Did the company prepare a 11:40:28</p> <p>8 Fingertip Formulary for Exalgo? 11:40:31</p> <p>9 A. I believe they partnered with 11:40:32</p> <p>10 Fingertip Formulary for that, yes. 11:40:34</p> <p>11 Q. Oh, okay. 11:40:36</p> <p>12 How about a product monograph? 11:40:38</p> <p>13 A. I believe so. 11:40:39</p> <p>14 Q. Okay. And Mallinckrodt used 11:40:40</p> <p>15 speaker programs for -- to promote Exalgo? 11:40:43</p> <p>16 A. Yes. 11:40:45</p> <p>17 Q. Used advisory boards as well to 11:40:46</p> <p>18 promote Exalgo? 11:40:48</p> <p>19 A. An advisory board is used to 11:40:49</p> <p>20 generate feedback from physicians, but it's 11:40:54</p> <p>21 not necessarily used as a promotional tool. 11:40:56</p> <p>22 But I can't remember. I believe we did an 11:40:59</p> <p>23 advisory board for Exalgo. 11:41:01</p> <p>24 Q. Okay. What is a product 11:41:03</p> <p>25 theature? 11:41:07</p>	<p>1 Q. Okay. Direct mail campaign? 11:41:57</p> <p>2 A. I can't recall. 11:42:00</p> <p>3 Q. Okay. With respect to 11:42:01</p> <p>4 wholesalers, retail pharmacy and MCO, what is 11:42:04</p> <p>5 MCO? 11:42:07</p> <p>6 A. I believe it stands for managed 11:42:08</p> <p>7 care organizations. 11:42:10</p> <p>8 Q. Okay. Were there pharmacy 11:42:11</p> <p>9 sales aids produced in -- associated with 11:42:13</p> <p>10 Exalgo? 11:42:17</p> <p>11 A. I believe so. I don't know if 11:42:17</p> <p>12 it was separate from the physician sales aid 11:42:18</p> <p>13 or not. I can't recall. 11:42:21</p> <p>14 Q. Okay. Were there leave-behinds 11:42:22</p> <p>15 for wholesalers, retailer pharmacy and MCOs? 11:42:24</p> <p>16 A. I believe so. 11:42:28</p> <p>17 Q. What about lunch and learn 11:42:29</p> <p>18 programs? 11:42:30</p> <p>19 A. I can't recall specifically. 11:42:31</p> <p>20 Q. Were there clinical preprints 11:42:32</p> <p>21 for that group? 11:42:38</p> <p>22 A. I can't recall for that group. 11:42:38</p> <p>23 Q. How about Fingertip 11:42:40</p> <p>24 Formularies? 11:42:42</p> <p>25 A. Yeah, as I mentioned, I believe 11:42:42</p>
Page 139	Page 141
<p>1 A. A product theature, I honestly 11:41:08</p> <p>2 don't know because I don't believe we did 11:41:11</p> <p>3 those. 11:41:13</p> <p>4 Q. Okay. Did Mallinckrodt use a 11:41:13</p> <p>5 PR campaign in association with Exalgo? 11:41:18</p> <p>6 A. We had a PR -- we had a PR 11:41:22</p> <p>7 group that we used, though I don't know 11:41:25</p> <p>8 that -- I don't recall what tactics we used. 11:41:28</p> <p>9 That was -- usually fell under the auspices 11:41:31</p> <p>10 of our communications group. 11:41:34</p> <p>11 Q. Okay. Was there a publication 11:41:35</p> <p>12 strategy for Exalgo? 11:41:36</p> <p>13 A. I believe our medical affairs 11:41:37</p> <p>14 group developed one. 11:41:39</p> <p>15 Q. Okay. And how about a product 11:41:40</p> <p>16 website? 11:41:42</p> <p>17 A. We did have a product website. 11:41:42</p> <p>18 Q. Was there a direct mail 11:41:44</p> <p>19 program? 11:41:47</p> <p>20 A. I can't recall specifically. 11:41:47</p> <p>21 Q. Okay. How about an MD alert? 11:41:48</p> <p>22 A. I can't recall on that. 11:41:51</p> <p>23 Q. Okay. Were there journal ads 11:41:53</p> <p>24 associated with Exalgo? 11:41:54</p> <p>25 A. Yes, I believe so. 11:41:55</p>	<p>1 that was a tactic that was developed. 11:42:44</p> <p>2 Q. Stocking request forms, were 11:42:45</p> <p>3 those done? 11:42:50</p> <p>4 A. I believe so. 11:42:50</p> <p>5 Q. How about trade -- well, let me 11:42:51</p> <p>6 go back. What are stocking request forms? 11:42:53</p> <p>7 A. It would be a piece of paper 11:42:56</p> <p>8 that a physician would sign indicating their 11:42:58</p> <p>9 desire to prescribe Exalgo. That would then 11:43:05</p> <p>10 go to the pharmacy as sort of a testament for 11:43:09</p> <p>11 them to stock the product because they had a 11:43:12</p> <p>12 physician that wanted to prescribe the 11:43:14</p> <p>13 product. 11:43:15</p> <p>14 Q. How would those stocking 11:43:15</p> <p>15 request forms get to the pharmacy? 11:43:17</p> <p>16 MR. DAVISON: Objection. 11:43:19</p> <p>17 THE WITNESS: I don't know 11:43:19</p> <p>18 specifically. 11:43:21</p> <p>19 QUESTIONS BY MR. CHALOS: 11:43:21</p> <p>20 Q. Is that something that the 11:43:22</p> <p>21 sales reps would bring to the pharmacy? 11:43:23</p> <p>22 MR. DAVISON: Objection. 11:43:25</p> <p>23 THE WITNESS: I believe they 11:43:25</p> <p>24 could, but I don't know specifically. 11:43:26</p> <p>25</p>

<p style="text-align: right;">Page 142</p> <p>1 QUESTIONS BY MR. CHALOS: 11:43:27</p> <p>2 Q. Okay. What are trade 11:43:29</p> <p>3 communications? 11:43:31</p> <p>4 A. I don't know. 11:43:31</p> <p>5 Q. How about product monographs? 11:43:32</p> <p>6 A. Yeah, that -- that was 11:43:34</p> <p>7 developed. 11:43:36</p> <p>8 Q. Okay. Did you have any role in 11:43:36</p> <p>9 determining whether wholesalers would get 11:43:39</p> <p>10 rebates on any of the Mallinckrodt products? 11:43:43</p> <p>11 A. I did not. 11:43:44</p> <p>12 Q. Were there speaker programs for 11:43:45</p> <p>13 the wholesalers, retail pharmacies or MCOs? 11:43:48</p> <p>14 A. Generally not. 11:43:51</p> <p>15 Q. How about an advisory board? 11:43:53</p> <p>16 A. Not that I can recall. 11:43:55</p> <p>17 Q. Okay. Did you have any role in 11:43:56</p> <p>18 discussions with third-party payers about 11:44:02</p> <p>19 getting Exalgo on formularies? 11:44:05</p> <p>20 A. No. 11:44:07</p> <p>21 Q. Okay. What is a pharmacy 11:44:07</p> <p>22 Pharm/alert? 11:44:11</p> <p>23 A. I think it's like a -- an 11:44:12</p> <p>24 e-mail blast. 11:44:16</p> <p>25 Q. Okay. And did -- were there 11:44:17</p>	<p style="text-align: right;">Page 144</p> <p>1 Q. And the MOD video you don't -- 11:45:06</p> <p>2 A. I can't remember. 11:45:09</p> <p>3 Q. Okay. How about a transition 11:45:10</p> <p>4 tool? 11:45:12</p> <p>5 A. I can't remember that 11:45:12</p> <p>6 specifically. 11:45:13</p> <p>7 Q. Okay. Was there a product 11:45:14</p> <p>8 website developed that had a section intended 11:45:15</p> <p>9 to target patients? 11:45:20</p> <p>10 A. I believe there was a section 11:45:22</p> <p>11 for patients that is written in a language 11:45:24</p> <p>12 that patients can understand their 11:45:29</p> <p>13 requirements about, you know, the education 11:45:31</p> <p>14 level that you have to target for that 11:45:33</p> <p>15 language. 11:45:35</p> <p>16 Q. Okay. And if you flip to the 11:45:36</p> <p>17 next page, page 18, yeah, budget allocation, 11:45:40</p> <p>18 I haven't added all these up, but do you 11:45:51</p> <p>19 recall whether the final budget allocation 11:45:56</p> <p>20 for fiscal year 2010 ended up breaking down 11:45:59</p> <p>21 the way it's depicted on page 18 of 11:46:06</p> <p>22 Exhibit 13? 11:46:12</p> <p>23 A. I can't recall. 11:46:12</p> <p>24 Q. Okay. You can put that aside 11:46:13</p> <p>25 for now. 11:46:15</p>
<p style="text-align: right;">Page 143</p> <p>1 any pharmacy Pharm/alerts associated with 11:44:19</p> <p>2 Exalgo? 11:44:23</p> <p>3 A. I can't recall specifically. 11:44:23</p> <p>4 Q. Okay. 11:44:25</p> <p>5 A. I believe so. 11:44:25</p> <p>6 Q. But you believe so, you said? 11:44:26</p> <p>7 A. Yes. 11:44:27</p> <p>8 Q. Okay. How about an MCO 11:44:28</p> <p>9 contracting? 11:44:30</p> <p>10 A. I'm sure we contracted with 11:44:30</p> <p>11 managed care organizations. 11:44:32</p> <p>12 Q. Okay. And then with respect to 11:44:33</p> <p>13 tactics and tools associated with patients, 11:44:35</p> <p>14 was there a patient welcome kit developed? 11:44:38</p> <p>15 A. I believe so. 11:44:42</p> <p>16 Q. Okay. What does patient 11:44:42</p> <p>17 education mean there? 11:44:44</p> <p>18 A. I believe it was a brochure 11:44:44</p> <p>19 that -- that talked about how to safely use 11:44:47</p> <p>20 the product, so it reinforced the medication 11:44:53</p> <p>21 guide developed by the FDA for the product in 11:44:56</p> <p>22 association with the package insert. 11:44:58</p> <p>23 Q. Okay. Was there a co-pay 11:45:02</p> <p>24 discount program for Exalgo? 11:45:04</p> <p>25 A. I believe so. 11:45:05</p>	<p style="text-align: right;">Page 145</p> <p>1 (Mallinckrodt-Wessler Exhibit 11:46:41</p> <p>2 14 marked for identification.) 11:46:41</p> <p>3 QUESTIONS BY MR. CHALOS: 11:46:42</p> <p>4 Q. Let's mark as Exhibit 14 a 11:46:42</p> <p>5 document, Bates MNK-T1_0001188838. And it is 11:46:44</p> <p>6 a presentation that says, "Specialty 11:46:53</p> <p>7 pharmaceuticals, medical affairs team 11:46:56</p> <p>8 meeting, February 18, 2010." 11:46:59</p> <p>9 Hand you that. And it's a 11:47:02</p> <p>10 relatively long document here. I'm going to 11:47:08</p> <p>11 focus you on the Exalgo section. You can 11:47:11</p> <p>12 feel free to review as much of this as you 11:47:17</p> <p>13 want, but the Exalgo plan which starts, it 11:47:21</p> <p>14 looks like, page 21 and goes through page 36. 11:47:25</p> <p>15 But you can look through the whole document 11:47:43</p> <p>16 if you'd like. 11:47:45</p> <p>17 Tell me when you've had a 11:47:46</p> <p>18 chance to review all of that. 11:49:32</p> <p>19 A. Certainly. 11:49:33</p> <p>20 Q. My first question is going to 11:49:37</p> <p>21 be -- if you look at the second page, it 11:49:41</p> <p>22 says, "Exalgo plan, Mike." 11:49:42</p> <p>23 My question is going to be, is 11:49:43</p> <p>24 that you? 11:49:48</p> <p>25 A. I can't recall this 11:49:48</p>

<p style="text-align: right;">Page 146</p> <p>1 specifically, but I would presume that "Mike" 11:50:04</p> <p>2 is me. 11:50:07</p> <p>3 Q. Okay. So let's start at -- 11:50:08</p> <p>4 let's see here. We'll look at the Exalgo 11:50:13</p> <p>5 section here starting on page 21. It's not 11:50:15</p> <p>6 numbered, but it comes -- 11:50:21</p> <p>7 A. Oh, I thought it was numbered. 11:50:23</p> <p>8 Q. It is. I'm saying but that 11:50:25</p> <p>9 page is not numbered. 11:50:28</p> <p>10 A. Oh, okay. 11:50:28</p> <p>11 Q. It says, "Exalgo plan." It's 11:50:32</p> <p>12 on the cover page. 11:50:32</p> <p>13 A. Yes. 11:50:32</p> <p>14 Q. It's between 21 and -- I'm 11:50:34</p> <p>15 sorry, it's between 20 and 22, so we'll call 11:50:34</p> <p>16 it 21. 11:50:36</p> <p>17 A. Okay. 11:50:36</p> <p>18 Q. So do you know whether you 11:50:39</p> <p>19 prepared this section of the presentation? 11:50:44</p> <p>20 A. I do not. 11:50:46</p> <p>21 Q. Okay. Do you recall presenting 11:50:46</p> <p>22 this section at a medical affairs team 11:50:49</p> <p>23 meeting in 2010? 11:50:51</p> <p>24 MR. DAVISON: Objection. 11:50:53</p> <p>25 THE WITNESS: I do not. 11:50:53</p>	<p style="text-align: right;">Page 148</p> <p>1 I can't recall. 11:51:55</p> <p>2 QUESTIONS BY MR. CHALOS: 11:51:55</p> <p>3 Q. Is there an opioid problem in 11:52:07</p> <p>4 the US today? 11:52:09</p> <p>5 MR. DAVISON: Objection. 11:52:10</p> <p>6 THE WITNESS: That's a very 11:52:10</p> <p>7 broad question. 11:52:15</p> <p>8 QUESTIONS BY MR. CHALOS: 11:52:17</p> <p>9 Q. Yeah. 11:52:17</p> <p>10 A. Can you be more specific? 11:52:17</p> <p>11 Q. Yeah. Have you heard anything 11:52:18</p> <p>12 about the issue of opioids in the United 11:52:20</p> <p>13 States today? 11:52:23</p> <p>14 MR. DAVISON: Objection. Form. 11:52:23</p> <p>15 THE WITNESS: Sure, it's on the 11:52:24</p> <p>16 news. 11:52:25</p> <p>17 QUESTIONS BY MR. CHALOS: 11:52:26</p> <p>18 Q. Yeah. 11:52:26</p> <p>19 What have you heard about it? 11:52:26</p> <p>20 A. Just what you mentioned, that 11:52:27</p> <p>21 there's an opioid problem. 11:52:30</p> <p>22 Q. Do you think that 11:52:31</p> <p>23 Mallinckrodt's marketing of opioids had any 11:52:40</p> <p>24 role in causing or contributing to the opioid 11:52:44</p> <p>25 problem that we have today? 11:52:47</p>
<p style="text-align: right;">Page 147</p> <p>1 QUESTIONS BY MR. CHALOS: 11:50:54</p> <p>2 Q. Okay. Let's look at then 11:50:57</p> <p>3 page 24 -- 11:51:09</p> <p>4 A. Okay. 11:51:10</p> <p>5 Q. -- "Exalgo brand strategy." 11:51:11</p> <p>6 Is the brand strategy something 11:51:17</p> <p>7 that you had a role in developing? 11:51:19</p> <p>8 A. I believe so. 11:51:20</p> <p>9 Q. Okay. First, on the left-hand 11:51:21</p> <p>10 side, the top bullet point there says, 11:51:26</p> <p>11 "Barriers, negative perceptions of 11:51:28</p> <p>12 hydromorphone: Old, too potent and street 11:51:31</p> <p>13 value, and in parentheses, abuse." 11:51:35</p> <p>14 Do you see that? 11:51:37</p> <p>15 A. Yes. 11:51:38</p> <p>16 Q. Okay. Do you have any idea 11:51:38</p> <p>17 what that means as you sit here today? 11:51:39</p> <p>18 A. I think that that was a 11:51:41</p> <p>19 perception that was common for Dilaudid, 11:51:44</p> <p>20 which was the immediate release hydromorphone 11:51:47</p> <p>21 product. 11:51:51</p> <p>22 Q. How did you know that at the 11:51:51</p> <p>23 time? 11:51:53</p> <p>24 MR. DAVISON: Objection. 11:51:53</p> <p>25 THE WITNESS: I can't remember. 11:51:54</p>	<p style="text-align: right;">Page 149</p> <p>1 MR. DAVISON: Objection. 11:52:48</p> <p>2 THE WITNESS: No. 11:52:48</p> <p>3 QUESTIONS BY MR. CHALOS: 11:52:48</p> <p>4 Q. Why do you say that? 11:52:50</p> <p>5 A. I believe our materials were 11:52:51</p> <p>6 compliant with FDA regulations, and I believe 11:52:53</p> <p>7 we marketed the products responsibly. And 11:52:56</p> <p>8 ultimately it was physicians who made 11:53:00</p> <p>9 decisions on to whom to prescribe products. 11:53:02</p> <p>10 Q. Do you think physicians ever 11:53:05</p> <p>11 prescribed Mallinckrodt products 11:53:09</p> <p>12 inappropriately? 11:53:10</p> <p>13 MR. DAVISON: Objection. 11:53:11</p> <p>14 THE WITNESS: I can't 11:53:11</p> <p>15 speculate. 11:53:12</p> <p>16 QUESTIONS BY MR. CHALOS: 11:53:12</p> <p>17 Q. If you'd look at page 27 -- 11:53:16</p> <p>18 sorry, 25, "Exalgo brand strategy." Look at 11:53:20</p> <p>19 the left side of strategy, bottom bullet 11:53:40</p> <p>20 point: "Disrupt and gradient prescribing 11:53:44</p> <p>21 habits through the value proposition for 11:53:46</p> <p>22 Exalgo." 11:53:49</p> <p>23 Do you see that? 11:53:49</p> <p>24 A. Yes. 11:53:49</p> <p>25 Q. What does that mean? 11:53:49</p>

Page 150			Page 152		
1	MR. DAVISON: Objection.	11:53:51	1	Mallinckrodt whether physicians prescribed	11:55:30
2	THE WITNESS: Differentiate	11:53:52	2	competitors' products or their own products?	11:55:31
3	Exalgo from competitive products.	11:53:54	3	MR. DAVISON: Objection.	11:55:35
4	QUESTIONS BY MR. CHALOS:	11:53:56	4	THE WITNESS: Does it matter	11:55:35
5	Q. Okay. Let's go back one page	11:53:58	5	whether -- well, it was -- we were	11:55:39
6	to page 24, under Barriers. The last bullet	11:53:59	6	most concerned with making sure that	11:55:40
7	said, "One of the barriers is engrained	11:54:06	7	physicians wrote the product for	11:55:42
8	prescribing habits that reserve use."	11:54:08	8	patients for whom they felt made the	11:55:44
9	Do you see that?	11:54:11	9	most sense for Exalgo and they were	11:55:47
10	A. No.	11:54:11	10	the appropriate patients.	11:55:49
11	Q. Bottom left under "Reposition	11:54:12	11	QUESTIONS BY MR. CHALOS:	11:55:51
12	Hydromorphone Barriers."	11:54:16	12	Q. Right.	11:55:51
13	A. Oh, okay.	11:54:17	13	At the end of the day, though,	11:55:51
14	Q. "Engrained prescribing habits	11:54:18	14	the bottom line was, your goal as a marketing	11:55:52
15	that reserve use."	11:54:19	15	man was to get physicians to prescribe	11:55:54
16	Do you see that?	11:54:20	16	Mallinckrodt products, right?	11:55:56
17	A. Yes.	11:54:21	17	MR. DAVISON: Objection.	11:55:57
18	Q. What does that mean?	11:54:22	18	THE WITNESS: For the	11:55:57
19	MR. DAVISON: Objection.	11:54:23	19	appropriate patients.	11:55:57
20	THE WITNESS: I can't recall.	11:54:24	20	QUESTIONS BY MR. CHALOS:	11:55:59
21	QUESTIONS BY MR. CHALOS:	11:54:24	21	Q. Yes, for the appropriate	11:55:59
22	Q. Okay. Is one of the goals of	11:54:27	22	patients?	11:56:00
23	Mallinckrodt's marketing of Exalgo to change	11:54:30	23	A. Yes, for the appropriate	11:56:00
24	the physician's prescribing habits to include	11:54:33	24	patients.	11:56:01
25	Mallinckrodt's product?	11:54:37	25	Q. Okay. If you look at page 27	11:56:02
Page 151			Page 153		
1	MR. DAVISON: Objection.	11:54:38	1	of Exhibit 14, "Exalgo positioning."	11:56:06
2	THE WITNESS: I would say the	11:54:39	2	Do you see that?	11:56:17
3	goal of our product promotion is to	11:54:40	3	A. Yes.	11:56:17
4	educate physicians on the safe and	11:54:45	4	Q. It says, "For opioid-tolerant	11:56:17
5	appropriate use of Exalgo and	11:54:49	5	patients with moderate to severe chronic	11:56:24
6	differentiate it from the competition	11:54:51	6	pain, Exalgo provides smooth, steady	11:56:26
7	so that they could make a decision on	11:54:53	7	hydromorphone blood levels that eliminate the	11:56:29
8	to whom to prescribe the product.	11:54:55	8	peaks and troughs resulting in 24-hour,	11:56:31
9	QUESTIONS BY MR. CHALOS:	11:54:57	9	continuous chronic pain relief."	11:56:34
10	Q. Was the hope of -- or I'm	11:55:00	10	Do you see that?	11:56:36
11	sorry. Was the goal of the marketing effort	11:55:01	11	A. Yes.	11:56:37
12	to have physicians prescribe competitors'	11:55:03	12	Q. That is an accurate statement	11:56:38
13	products?	11:55:08	13	of the positioning of Exalgo in the market?	11:56:39
14	MR. DAVISON: Objection.	11:55:08	14	MR. DAVISON: Objection.	11:56:42
15	THE WITNESS: I don't believe	11:55:09	15	THE WITNESS: As I recall.	11:56:43
16	that was a goal unless it was for -- I	11:55:10	16	QUESTIONS BY MR. CHALOS:	11:56:44
17	mean, it's all about prescribing it	11:55:14	17	Q. Yeah. Okay.	11:56:44
18	for the appropriate patients, so if	11:55:15	18	And the marketing messages that	11:56:49
19	competitive product made more sense	11:55:19	19	were associated with Exalgo were in support	11:56:51
20	for that particular physician. But	11:55:20	20	of this positioning?	11:56:54
21	that's all within the purview of the	11:55:22	21	MR. DAVISON: Objection.	11:56:56
22	physician and their decision,	11:55:24	22	THE WITNESS: Assuming this is	11:56:57
23	ultimately.	11:55:28	23	the final positioning statement. I	11:56:57
24	QUESTIONS BY MR. CHALOS:	11:55:28	24	think this might have been a document	11:56:59
25	Q. So it didn't matter to	11:55:28	25	that was developed prior to the	11:57:01